

Tennessee Board of Pharmacy  
November 15 - 16, 2005

**TENNESSEE BOARD OF PHARMACY  
NOVEMBER 15 – 16, 2005  
ROOM 160 – DAVY CROCKETT TOWER  
NASHVILLE, TN**

**BOARD MEMBERS PRESENT:**

Reggie Dilliard, President  
Julie Frazier, Vice President  
Sheila Mitchell, Member  
Robert Mitchell, Member  
Monica Franklin, Consumer Member\*  
Todd Bess, Member  
Bettie Wilson, Member

**STAFF PRESENT:**

Kendall Lynch, Director  
Alison Z. Cleaves, Chief Legal Counsel  
Martha Agee, Board Administrator  
Terrence Cannada, Pharmacist Investigator  
Harry Fuqua, Pharmacist Investigator  
Terry Grinder, Pharmacist Investigator  
Richard Hadden, Pharmacist Investigator  
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, November 15, 2005, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST, by Dr. Reggie Dilliard, President. President Dilliard noted for the record that Mrs. Franklin was not present at roll call. Dr. Dilliard welcomed the newest board member, Dr. Bettie Wilson from Johnson City, Tennessee. Dr. Wilson is the Health Systems Director for Mountain States Health Alliance Hospital.

**APPROVAL OF THE MINUTES**

The **minutes of the July 12 - 13, 2005** board meeting were presented and reviewed by the Board. Dr. Robert Mitchell motioned to **approve** the minutes, seconded by Dr. Julie Frazier. All were in favor and the motion carried.

The **minutes of the September 20 - 21, 2005** board meeting were presented and reviewed by the Board. Dr. Todd Bess noted on page 40, Dr. Nicholas Graybeal's term of probation should be reflected as ten (10) years, instead of five (5) years. Dr. Robert Mitchell motioned to **accept the minutes as amended**, seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**CONSENT ORDERS**

**TOM A. PARKER, DPH  
316 West Lake Drive  
Marion, AZ 72364**

Chief legal counsel, Mrs. Alison Cleaves presented a Consent Order whereas Dr. Tom Parker acknowledged being chemical dependent. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

### **CONSENT ORDERS FOR THE REINSTATEMENT OF LICENSE**

Mrs. Alison Cleaves, chief legal counsel, presented six (6) Consent Orders for the Reinstatement of License for the following pharmacists:

<b>PHARMACIST</b>	<b>TERM OF PROBATION</b>
William Bethshears	Five (5) years
Collette Freeman	Ten (10) years
Nicholas Graybeal	Ten (10) years
Tammy Lard	Ten (10) years
James Mason	Five (5) years
Cephas Sloan	Ten (10) years

Dr. Julie Frazier motioned to **accept** the Consent Orders for the Reinstatement of License; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**LES HALL, DPH**  
**8340 Birch Run Lane**  
**Knoxville, TN 37919**

**WILLIAM RABENSTEINE, DPH**  
**1228 Southbreeze Circle**  
**Knoxville, TN 37910**

Mrs. Alison Cleaves, chief legal counsel, presented Consent Orders for Dr. Les Hall and Dr. William Rabensteine who were in violation of Board of Pharmacy Rules 1140-2-.01 (1) and 1140-2-.01 (11) (a) (c). A civil penalty of \$250 was assessed to each pharmacist. Dr. Julie Frazier motioned to **accept** the Consent Orders; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**AVANI SINDHAL, DPH**  
**105 Oak Street**  
**Hendersonville, TN 37075**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. Avani Sindhal was in violation of Rules 1140-2-.01 (1) and 1140-2-.01 (11) (a) (c) relevant to a misfill. A civil penalty of \$500 was assessed. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**ALLEN O. QUINN, DPH**  
**5103 Raccoon Valley Road**  
**Knoxville, TN 37938**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on behalf of Dr. Allen Quinn for the violation of Board of Pharmacy Rules 1140-2-.01 (1) and 1140-2-.01 (11) (a) (c) in regards to a misfill. A \$500 civil penalty was assessed. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**TRINITY HOSPITAL PHARMACY**  
**302 E. Main Street**  
**Erin, TN 37061**

A Consent Order was presented by Mrs. Alison Cleaves, chief legal counsel, whereas during a routine compliance inspection, a board of pharmacy inspector observed that Trinity Hospital Pharmacy was open with no pharmacist present and that the PIC had resigned approximately ninety (90) days prior to the inspection without notifying the Board. These acts and conduct constitute a violation of Rules 1140-4-.02 (1) and 1140-3-.14 (2) (a). A \$250 civil penalty was assessed. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**LINDA GOODMAN CONASTER, DPH**  
**P. O. Box 700**  
**Jamestown, TN 38556**

Chief legal counsel, Mrs. Alison Cleaves presented a Consent Order whereas a pharmacy board investigator observed four (4) pharmacy technicians being supervised by one (1) pharmacist, which constitutes a violation of Rule 1140-2-.02 (6). A civil penalty of \$250 was assessed. Dr. Sheila Mitchell motioned to **accept** the Consent Order; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**R. RENEE HAMMONS, DPH**  
**5177 Kimbark Woods**  
**Memphis, TN 38134**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas during a routine compliance inspection, a Board of Pharmacy Investigator found a substantial quantity of Somatropin injectable stored on the shelves when pursuant to the manufacturer's instructions should have been kept under proper refrigeration. This act constitutes a violation of T. C. A. §53-10-106 (a) (1). A civil penalty of \$250 was assessed. Dr. Sheila Mitchell motioned to **accept** the Consent Order; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

## WAIVERS

**GENE ALLEN, DPH**  
**CVS PHARMACY #4352**  
**302 Franklin Road**  
**Brentwood, TN 37927**

Dr. Gene Allen is requesting a waiver of Rule 1140-3-.14 (13) relevant to the number of working hours required for Janet Smith, DPH, to be pharmacist-in-charge. Dr. Smith is currently the acting PIC and works thirty (30) hours weekly. Another pharmacist works thirty (30) hours as well, but no one assumes the current role. The pharmacy fills approximately 1,450 prescriptions per week. After board discussion, Dr. Julie Frazier motioned to **grant the waiver with a one (1) year limit and to ask for an additional waiver if a PIC is not found.** Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**MIKE MCKNATT, DPH**  
**10140 Loftin Drive**  
**Olive Branch, MS 38654**

Dr. Mike McKnatt is requesting a waiver of Rule 1140-1-.07 (3) (c) relevant to the requirement for the successful completion of the NAPLEX examination for reinstatement of his pharmacist license. Dr. McKnatt's license expired on April 30, 1999 and he would not have received any information relevant to the Board's rule changes in 1998, as the license was in an active status at the time and he was practicing in another state. Dr. McKnatt was disciplined in Mississippi for recordkeeping violations, and for treating members of his family and himself with medications without obtaining authorization from a prescriber and without paying for the medications. On May 13, 2004, The Mississippi Board placed Dr. McKnatt's license on probation for a term of five (5) years, effective June 2, 2004. Dr. Tom McLain, Director of Pharmacy at Professional Care Services in Covington, Tennessee, furnished a letter of support and to request a waiver of the internship requirement. After board discussion, Dr. Julie Frazier motioned to **deny the waiver, but if Dr. McKnatt wants to present his case, he will need to appear before the Board.** Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**COLIN E. MURCHISON, DPH**  
**11 Gunpowder Ridge**  
**Ft. Thomas, KY 41075**

Dr. Colin Murchison is requesting a waiver of Rule 1140-5-.01 relevant to the Live ACPE continuing education required for the renewal of his pharmacist license due to multiple extenuating circumstances. After board

discussion, Dr. Julie Frazier motioned to **allow a one (1) year extension to obtain the Live CE hours and the fifteen (15) hours cannot count towards the next renewal cycle. The waiver will expire on October 31, 2006.** Dr. Todd Bess seconded the motion. All were in favor and the motion carried.

**ANGELA BALLOU, PHARM D**  
**BALLOU PHARMACY**  
**P. O. Box 733**  
**LaFayette, TN 37083**

Dr. Angela Ballou is requesting a waiver of Rule 1140-3-.14 (12) relevant to being the pharmacist in charge at more than one (1) pharmacy practice site. Dr. Julie Frazier recused herself. Dr. Ballou is currently the PIC at Ballou Pharmacy, an independent retail pharmacy and is requesting to be PIC at Macon County General Hospital, a twenty (20) bed facility that was previously serviced by several different pharmacies. The hospital pharmacy utilizes an automated Pyxis dispensing machine and a pharmacist will be on site up to twelve (12) hours per week or as required to provide necessary services. Dr. Sheila Mitchell motioned to **grant** the waiver request, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**TERESA GRISHAM BROWN, DPH**  
**108 Ingleside East**  
**Madison, MS 39110**

Dr. Teresa Brown is requesting a waiver of Rule 1140-5-.01 relevant to the fifteen (15) Live ACPE continuing education hours required for the renewal of her pharmacist license. In March, 2004, the Board granted Dr. Brown a waiver of the fifteen (15) Live ACPE hours as her spouse was stationed in Germany and she was unable to obtain the hours. Dr. Brown has only recently returned to the United States and the license will expire on December 31, 2005. Dr. Sheila Mitchell motioned to **grant a six-month extension in which to obtain the Live ACPE continuing education hours**; seconded by Mrs. Monica Franklin. **The waiver will expire at midnight on June 30, 2006.** All were in favor and the motion carried.

**KEVIN HARTMAN, DPH**  
**801 Picadilly Drive**  
**Nolensville, TN 37135**

Director Kendall Lynch stated Dr. Kevin Hartman is requesting a Modification to the Consent Order he entered into with the Board on May 14 - 15, 2003, whereas he may not serve as the pharmacist-in-charge for three (3) years, however, after a period of two (2) years may petition the Board for a modification of his consent order. Dr. Hartman owns Nashville Pharmacy Services and has the support from TPRN. Dr. Julie Frazier motioned to

**allow Dr. Hartman's PIC privileges be reinstated;** seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**TAYRN BURKLEY, DPH  
818 Alida Avenue  
Memphis, TN 38106**

Dr. Tayrn Burkley is requesting a waiver of Rule 1140-1-.07 (3) (c) relevant to the requirement for the successful completion of the NAPLEX, MPJE and internship hours for reinstatement of her pharmacist license. Dr. Burkley's license was active until the license expired on August 31, 1998. Dr. Burkley stated for the past seven (7) years, she has taken care of a family member who was diagnosed with a medical condition. The Board inquired as to the type of professional activities she has been engaged in during the past seven (7) years, and if she has kept abreast of the changing pharmacy practice by completing continuing education or attending seminars. Dr. Julie Frazier motioned **as a suggestion that Dr. Burkley may want to take the Pharmacist Self-Assessment Mechanism (PSAM) and should Dr. Burkley want to share these results, it may assist the Board in determining the waiver requests.** Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

#### **DIRECTOR'S REPORT**

##### **2006 BOARD CALENDAR - RESCHEDULING OF BOARD MEETING DATE OF SEPTEMBER 19 - 20, 2006 DUE TO CONFLICT**

Director Kendall Lynch noted a board member had a conflict in the scheduling of September, 2006 meeting. Dr. Todd Bess motioned to **reschedule the Pharmacy Board Meeting date** from September 19 - 20, 2006 to **September 26 - 27, 2006** in order to accommodate a conflict in Dr. Sheila Mitchell's schedule. Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

##### **NABP 2005 FALL EDUCATIONAL CONFERENCE SUNNY ISLES BEACH, FLORIDA DECEMBER 2 - 4, 2005**

Director Kendall Lynch noted Dr. Reggie Dilliard will attend the presentation at NABP's 2005 Fall Educational Conference to be held in Sunny Isles Beach, Florida on December 2 - 4, 2005.

##### **JIM WOODBURN, MD, MS CVS "MINUTE CLINIC"**

Director Kendall Lynch noted he received a letter from Dr. Jim Woodburn relevant to "Minute Clinics" being located in CVS pharmacies and requested additional information on the processes in place for compliance with

the rules and regulations relevant to prescribing medications to patients. Dr. Lynch stated the nurse practitioners and physician assistant's are all licensed in the State of Tennessee and have signed collaborative agreements with the medical director. Dr. Lynch mentioned Minute Clinic is very careful in regards to the relationship it has established with CVS and, in particular, the referral process. Dr. Lynch noted there is no difference in a free-standing clinic.

## **FINANCIAL REPORT**

Director Kendall Lynch presented an unaudited financial report for the fiscal year ending June 30, 2005 to the Board members and noted the Board had a substantial reserve balance after expenditures.

## **NATIONAL ASSOCIATION OF BOARDS OF PHARMACY MPJE REVIEW SAN DIEGO, CALIFORNIA JANUARY 19 - 23, 2006**

Director Kendall Lynch noted participants will annually review questions for Tennessee's MPJE examination. The participant will be reimbursed by NABP for attending the review. Director Lynch noted usually two (2) individuals are afforded an opportunity to attend, a board member plus one staff member. Dr. Richard Hadden has expressed an interest in attending. After discussion, Dr. Todd Bess stated he may be able to attend, if available. Dr. Lynch noted perhaps an additional staff member may attend.

## **NATIONAL ASSOCIATION OF BOARDS OF PHARMACY CONSTITUTION AND BYLAWS REVISION**

Director Kendall Lynch noted at NABP's 101<sup>st</sup> Annual Meeting in New Orleans, Louisiana, there were several proposed amendments to NABP's Constitution and Bylaws. Dr. Lynch stated currently the only requirement for reciprocity licensure transfer is that the Board has to utilize the NABP's clearinghouse. With the Bylaw change, applicants will no longer be required to maintain the license that was required by original examination in order to transfer into some states. Director Lynch stated the Attorney General questions whether this was constitutional or not and determined it was not. NABP is seeking each board's opinion. Dr. Julie Frazier motioned **to keep the current policy**; seconded by Dr. Robert Mitchell. Chief legal counsel, Mrs. Alison Cleaves noted a "roll-call" vote was not necessary. All were in favor and the motion carried.

**NATIONAL ASSOCIATION OF STATE CONTROLLED SUBSTANCE AUTHORITIES  
(NASCSA) MEETING  
FT. LAUDERDALE, FL**

Director Kendall Lynch attended the National Association of State Controlled Substance Authorities meeting due to the involvement of Tennessee's Controlled Substance Database Monitoring Program in Ft. Lauderdale, Florida on October 18 - 20, 2005.

**NORTH CAROLINA BOARD OF PHARMACY - CE POLICY ESTABLISHED FOR  
KNOXVILLE AREA PHARMACEUTICAL ACCESS COALITION (KAPAC)**

Director Kendall Lynch noted the North Carolina Board of Pharmacy does not have established in their rules nor laws a provision for the approval of continuing education credits for free clinic volunteers. The North Carolina Board approved by board policy to allow one (1) hour of board approved CE for every three (3) hours of working in these charitable clinics. Dr. Sheila Mitchell motioned to **allow one (1) credit hour for every two (2) hours of working in the charitable clinic and is a non-ACPE approved CE, of the six (6) contact hours that may be acquired through programs approved by the Board.** Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

**ON-LINE LICENSE RENEWALS**

The Department of Commerce and Insurance is anticipating the on-line renewal process to be implemented in August, 2006.

**PYXIS TYPE MACHINE IN LTCF**

Director Kendall Lynch asked this **matter be deferred.**

**CARL T. JOHNSON, PRESIDENT  
COMPRESSED GAS ASSOCIATION  
4221 WALNEY ROAD - 5<sup>TH</sup> FLOOR  
CHANTILLY, VA 20151-2923**

Director Kendall Lynch noted to the board members of recent legislation that was passed by the State of Indiana relevant to an impact on the manufacture and distribution of medical gases. Compress Gas Association is requesting an opportunity to review and discuss any new or additional requirements or regulations that may impact the medical gas industry prior to a final rulemaking.



## **HOTEL ARRANGEMENTS FOR BOARD MEMBERS**

Director Kendall Lynch asked the board members to confirm their choice for hotel accommodations for the 2006 calendar year. Dr. Robert Mitchell requested arrangements to be made with The Sheraton and Dr. Sheila Mitchell and Dr. Bettie Wilson preferred accommodations at The Doubletree.

**BARRY A. BUNTING, PHARM D**  
**MANAGER OF PHARMACY DEPARTMENT**  
**ASHEVILLE PROJECT**  
**MISSION HOSPITAL**  
**445 Biltmore Avenue #203**  
**Asheville, NC 28801**

Director Kendall Lynch stated Dr. Barry Bunting is requesting a ruling from the Board regarding whether a consultant/trainer, who is interested in establishing a disease management program for employees of Sullivan County, Tennessee, need to be licensed by the Tennessee Board. Dr. Bunting states that the APhA Foundation and the City of Asheville are providing a service through a pharmacist-based disease management clinic for diabetic patients who are not able to obtain their medications and syringes. The Sullivan County Health Department is interest in training pharmacist for a similar project in Tennessee. Mrs. Alison Cleaves, chief legal counsel does not feel that the pharmacist is “practicing pharmacy”.

## **LIMIT OF EMERGENCY BOXES**

Director Kendall Lynch noted he received an e-mail inquiring if the Board of Pharmacy allows multiple emergency boxes in a hospital facility. The Board cited according to Rule 1140-4-.09, it does not specify any limit. The hospital facility may provide these emergency kits by developing policy and procedures that have been determined by the representatives of the medical and nursing staff and the pharmacist-in-charge or his designee to ensure compliance with the Rule.

## **PUBLIC CHAPTER 434: TENNESSEE AFFORDABLE DRUG ACT OF 2005** **GENERIC SUBSTITUTION**

Dr. Kendall Lynch mentioned in Section 7 of Public Chapter 434, it states,

7 (a) When a pharmacist receives a written, verbal, electronic or facsimile prescription order and the prescriber has not noted medical necessity of the brand name prescribed as required in Section 6, the pharmacist shall dispense the least expensive generic equivalent in stock, or a generic equivalent covered under the patient's drug plan, except as provided in Section 7 (c) and 7 (d), which states,

7 (c) If a pharmacist has reason to believe that the brand name drug or drug product is less expensive to the patient or patient's drug plan than the generic equivalent, the pharmacist shall fill the prescription with the brand name drug or drug product.

7 (d) When a pharmacist receives a written, verbal, electronic, or facsimile prescription order and the prescriber has not noted medical necessity of the brand name as required in Section 6, the pharmacist shall dispense the appropriate drug pursuant to subsection 7 (a), **UNLESS the patient is individually paying the entire cost of the prescription at the time of dispensing and objects to any substitution.**

The Board requested Chief Legal Counsel, Mrs. Alison Cleaves, to draft a letter regarding this issue and to send it to the Deputy Commissioner of the Tennessee Department of Commerce and Insurance and the Tennessee Pharmacist Association. President Reggie Dilliard requested the letter Mrs. Cleaves prepares to be faxed to the board members.

#### **DEPARTMENT OF COMMERCE AND INSURANCE MULTI-AGENCY REGULATORY SYSTEM (MARS)**

Director Kendall Lynch advised to the board members that the Department is initiating a new system to replace the current Regulatory Boards System (RBS). The Multi-Agency Regulatory System (MARS) is a windows-based orientated system that will be implemented by Systems Automation. Systems Automation has designed programs for other state agencies and it will be customized to meet our needs with a configurable user interface.

#### **CONTROLLED SUBSTANCE DATABASE UPDATE**

Director Kendall Lynch noted to the board members that the Request for Proposal (RFP) is being developed. The timeline to get the RFP out of the Department is by December 15, 2005. An application for a \$400,000 grant has to be submitted to the U. S. Department of Justice. Congress has not assigned the bills. Director Lynch stated the legislature may allocate funds from the General Assembly. A target date of June 30, 2006 is set for the collection of records.

#### **PROPOSED RULE - THERAPEUTIC INTERCHANGE**

Director Kendall Lynch stated that currently “therapeutic interchange” is not defined in the Board of Pharmacy Rules.

#### **DEFINITION:**

Therapeutic Interchange means the act of dispensing a drug product that is in the same therapeutic class as the drug prescribed and having the same or similar action, but not the identical composition, meaning a change in the drug originally prescribed exclusive of generic substitution.

Therapeutic Interchange can occur under any of the following circumstances.

1. When the prescriber indicates on the prescription blank in some manner that therapeutic interchange is permitted.
2. Per approved institutional policy and procedure.
3. Per a written protocol between the pharmacy and the medical provider.

Director Lynch noted the rules process to the board members. The board reviews any previous changes made to the rule. The Board then approves the rule changes and a rulemaking hearing is conducted. The Attorney General's Office reviews for compliance with State law and then are forwarded to the Secretary of State's Office to be filed which usually takes approximately 75 days until it becomes effective.

**DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION  
21 CFR PARTS 1300, 1301, 1304 AND 1307**

**PREVENTING THE ACCUMULATION OF SURPLUS CONTROLLED SUBSTANCES AT LONG TERM CARE FACILITIES**

Director Kendall Lynch noted DEA is amending its regulations to allow, where State laws permit, for retail pharmacy installation of automated dispensing systems at long term care facilities. Automated dispensing systems would allow dispensing of single dosage units and mitigate the problem of excess stocks and disposal. The Board of Pharmacy allows additional licensing for ADS machines in long term care facilities.

**LEGAL/COMPLAINT REPORT**

**INTERPRETATION OF RULE 1140-2-.01 - DISPLAY OF PHARMACIST LICENSE AND CERTIFICATE OF REGISTRATION**

**BRUCE E.VINSON, DPH  
CHIEF PHARMACY OFFICER & DIRECTOR  
BAPTIST MEMORIAL HOSPITAL - MEMPHIS  
6019 Walnut Grove Road  
Memphis, TN 38120**

Director Kendall Lynch stated he received an inquiry relevant to Rule 1140-2-.01 and the conspicuous display of a pharmacist license and certificate of registration at the primary pharmacy practice site. Dr. Bruce Vinson inquired about pharmacist practicing in various areas throughout the institutional facility and if displaying the licenses in different areas of the facility was in compliance with the Rule. The Board stated under the definition of Rule 1140-1-.01 (16), an Institutional Pharmacy Practice Site was defined as, "a pharmacy practice site serving patients within an institutional facility." Rule 1140-1-.01 (23), defines a Pharmacy Practice Site as "any place within this state where prescription drugs or prescription devices are dispensed and where

pharmaceutical care is provided ...”Dr. Sheila Mitchell motioned the primary practice site is where pharmacy care is given and in an institutional facility it is throughout the entire facility not just where medical orders are prepared. Dr. Todd Bess seconded the motion. All were in favor and the motion carried.

**CHRIS SCHWERDT, PHARM D  
DIRECTOR - CLINICAL SERVICES  
THE PHARMACY - NASHVILLE  
& NCS - MEMPHIS**

Director Kendall Lynch introduced Dr. Chris Schwerdt, Director of Clinical Services with The Pharmacy in Nashville and NCS in Memphis, Tennessee, who is requesting an approval from the Board to allow a therapeutic interchange with Physician Authorization Letters (PALs) for institutional and ambulatory patients. After board discussion, the matter was deferred until additional information is comprised from other states. Dr. Sheila Mitchell motioned the Board categorizes a long term care facility as an institutional practice site. Dr. Bettie Wilson seconded the motion. Dr. Robert Mitchell abstained. Dr. Julie Frazier recused herself. The motion carried.

**BRIAN KILPATRICK, DPH - REQUEST FOR REINSTATEMENT OF LICENSE  
NASHVILLE, TN**

Dr. Brian Kilpatrick appeared before the Board to request the reinstatement of his pharmacist license. Dr. Kevin Hartman and Dr. Randall Jean with the Tennessee Pharmacist Recovery Network advocated on his behalf. Director Kendall Lynch noted in November, 1999, Dr. Kilpatrick’s license was reinstated with a term of probation for five (5) years due to chemical dependency. In September, 2005 Dr. Kilpatrick relapsed and sought treatment at Cornerstone but later transferred to Talbott Recovery. Dr. Kilpatrick was discharged on September 3, 2004. Dr. Kilpatrick stated he had some stressful family situations occur and he did not deal with the issues in a healthy way.

Dr. Kevin Hartman and Dr. Randall Jean stated Dr. Kilpatrick was compliant with the TPRN contract. Dr. Kilpatrick stated he has support from his wife, sister and mother as well as TPRN. After Board discussion, Dr. Todd Bess motioned:

1. Respondent does hereby agree to the reinstatement of license number **8194** with the following probationary conditions. Said probation shall remain in effect for a period of ten (10) years, from **November 15, 2005 to November 15, 2015.**

a) The Respondent shall completely abstain from the consumption of alcohol or any other

drugs, except as specified in (b).

- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Paul Turpin, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c) The Respondent shall not obtain or attempt to obtain any prescriptions in the respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the

Board office;

- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a “floater” for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**DIXIE BIBB, DPH**  
**985 Charles Place**  
**Atoka, TN 38004**

Director Kendall Lynch introduced to the Board Dr. Dixie Bibb, who is requesting a waiver of Rule 1140-1-.07 (3) (c) relevant to the successful completion of the NAPLEX examination and internship hours to reinstate her pharmacist license. Dr. Lynch noted that Dr. Bibb’s history revealed an active license in January, 1994 and in April of 1997, Dr. Bibb requested an inactive status. During the implementation of the Board’s new rules changed in July, 1998, Dr. Bibb acknowledged receipt of the Board’s letter and elected option #3, as she never anticipated relocating back to Tennessee. In March, 1999, Dr. Bibb’s license expired. Dr. Bibb noted since February, 1981, she has been employed with E. I. Lilly and feels she has stayed engaged in the pharmaceutical field. After board discussion, Mrs. Monica Franklin suggested to Dr. Bibb to take the “PSAM” and to report the results to the Board and the Board will be able to determine the waiver requests; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**CHARLES STACHOWIAK, DPH - RECIPROCAL CANDIDATE**  
**2304 E. Fletcher**  
**Tampa, FL 33612**

Director Kendall Lynch introduced Dr. Charles Stachowiak, a reciprocal candidate, who is appearing today at the request of the Board to discuss actions taken against his license by the Florida Board of Pharmacy. Dr. Charles Stachowiak stated he was a pharmacy manager in Florida and were given coupons from the corporation to establish customer relations. Dr. Stachowiak noted he used the "green cards" to purchase groceries, not prescription medications. Dr. Stachowiak stated he pled guilty to felony theft over \$1,000 in Florida. The Florida Board of Pharmacy placed Dr. Stachowiak's license on a two-year term of probation, paid fines of \$1,000, and had to complete twelve (12) hours of continuing education. Dr. Stachowiak stated he has met all of the requirements imposed by the Florida Board and that the court has adjudicated his record. After board discussion, Dr. Julie Frazier motioned to **allow Dr. Stachowiak to continue the reciprocity process;** seconded by Mrs. Monica Franklin. There was one (1) nay vote. The motion carried.

## **ADJOURNMENT**

President Reggie Dilliard adjourned the Tennessee Board of Pharmacy meeting on Tuesday, November 15, 2005, at 3:50 p.m. CST.

## **RECONVENED**

The Tennessee Board of Pharmacy reconvened on Wednesday, November 16, 2005 at 9:00 a.m. CST in Room 160 of the Davy Crockett Tower, Nashville, Tennessee. A quorum of the members being present, President Reggie Dilliard called the meeting to order. All board members were present with the exception of Dr. Julie Frazier, who was attending a telephone conference.

## **LEGAL REPORT/COMPLAINTS (CONTINUED)**

### **1. Case No.: L04-PHR-RBS-200419446**

Complaint alleges that Respondent was terminated from her employment as a registered technician because of theft of controlled substances. Respondent's registration expired on October 31, 2005.

### **Recommendation: Closure and re-open in case of reapplication**

Dr. Todd Bess motioned to **accept counsel' recommendation;** seconded by Dr. Robert Mitchell. Dr. Julie Frazier was not present during the discussion of the complaint. The motion carried.

### **2. Case No.: L05-PHR-RBS-200521615**

Complaint alleges that Respondent was terminated from his employment as a registered technician because of theft of controlled substances. Respondent's registration expired on October 31, 2005.

### **Recommendation: Closure and re-open in case of reapplication.**

Dr. Todd Bess motioned to **accept counsel' recommendation**; seconded by Dr. Robert Mitchell. Dr. Julie Frazier was not present during the discussion of the complaint. The motion carried.

### **3. Case No.: L04-PHR-RBS-2003419527**

Complaint alleges that Respondent was terminated from employment as a registered technician for theft and diversion of controlled substances. Respondent's registration expired on October 31, 2005.

**Recommendation: Closure and re-open in case of reapplication.**

Dr. Todd Bess motioned to **accept counsel' recommendation**; seconded by Dr. Robert Mitchell. Dr. Julie Frazier was not present during the discussion of the complaint. The motion carried.

### **4. Case No.: L05-PHR-RBS-200501484**

Respondent, a pharmacy technician, admitted to the theft of unknown quantities of Hydrocodone, Alprazolam, Clonazepam, Xanax and Propoxyphene for personal use from February, 2004 to May, 2005. DEA 106 form confirms the losses.

**Recommendation: Formal Hearing (CO for Revocation)**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. Dr. Julie Frazier was not present during the discussion of the complaint. The motion carried.

### **5. Case No.: L05-PHR-RBS-200503306**

Complainant claims that she consumed Prednisone for over one (1) year and as a result of this ingestion, she claims that she has developed cataracts. Complainant claims that the pharmacy did not warn her of this side effect. The Complainant is a type II non-insulin dependent diabetic who submitted a statement from her optometrist stating that glaucoma and cataracts are documented side effects of prolonged use of oral steroids. Complainant also submitted a statement from the pharmacy which says that the warnings on the bottles only contain the most common side effects because of space limitations on the bottle. The prescription information sheets that accompany the prescriptions are provided to the pharmacy by an outside company.

Investigation revealed that the Complainant consumed 60 Prednisone 10mg and 35 Prednisone 5 mg from November 25, 2003 to July 7, 2004 and all of the prescriptions were correctly filled by the pharmacy. Former and present PIC's provided copies of the patient counseling policy and statements saying that proper procedures were followed. Patient information sheets supplied to the patient do not contain any specific reference to any visual disturbance, just a general reference to report side effects to your physician. The Medline online patient information sponsored by the National Health Institute does not identify glaucoma as a side effect. The Prednisone package insert states that complication of treatment is dependent on the size of the dose and the duration that it is consumed. Complainant's use is not considered prolonged. Rule only requires counseling for common side effects or adverse effects.

**Recommendation: Dismiss**

Dr. Bettie Wilson motioned to **dismiss the complaint**; seconded by Dr. Robert Mitchell. Dr. Julie Frazier was not present during the discussion of the complaint. The motion carried.

### **6. Case No.: L05-PHR-RBS-200503286**

This matter was originally presented to the Board at the last Board meeting in which the Board previously voted to send the Respondent a Consent Order for indefinite suspension of his license. Respondent was convicted of his second DUI; the first charge occurred in 2001 and the second charge occurred in 2005 and the Respondent self-reported this second conviction to the Board. Complainant's counsel contacted our office



when he received the Consent Order and submit to Board policy which provides for a thirty (30) day suspension. Respondent states that he had already attended an inpatient treatment facility for up to 28 days credit against his 45 day sentence. Respondent submitted information about his inpatient treatment which was a spiritual retreat to help with the recovery from drug and alcohol problems. It's a 30 day treatment program that requires that the patient be medically detoxed prior to entry. A letter from a counselor from the treatment facility was submitted in support stating that the Respondent's voluntary participation in group and one-on-one sessions has focused his desire to modify behaviors and attitudes. Counselor states that Respondent has experienced an awakening and embraces a renewed sense of accountability and responsibility in his life in that he realizes he must tackle issues in his life with a spiritual way of life and not through drugs and/or alcohol.

**Recommendation: Discretion of the Board (CO with five (5) year term of probation with usual terms and conditions)**

Dr. Sheila Mitchell motioned to **suspend the license for thirty (30) days as quoted in the Board's policy and the suspension starts when the Consent Order is signed**. Dr. Julie Frazier seconded the motion. There was one (1) nay vote. The motion carried.

**7. Case No.: L05-PHR-RBS-200503232**

Respondent, pharmacy technician, admitted to the theft of 200 Alprazolam 2mg. Respondent states that she did not consume or sell the drugs, but threw them out of her car window. Respondent signed a restitution agreement. Local police were contacted, but did not arrest the Respondent since she agreed to make restitution.

**Recommendation: Formal Hearing (CO for Revocation)**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**8. Case No.: L05-PHR-RBS-200503603**

The Board received information from the Respondent's employer that she was terminated from her employment as a pharmacy technician. Investigation reveals that another technician noticed that a small box had fallen from the Respondent's purse that contained a plastic bag containing an unidentified white powder, a razor blade and a short straw. PIC confronted the Respondent and sent her home. Respondent refused to admit to the PIC that she was using drugs and refused to submit to a urine screen. Respondent stated to the PIC that she found the box belonged to her fiancée and she found it while cleaning the house. The next day the PIC received a letter from the Respondent expressing regret for the incident and indicating that she would not return to work.

**Recommendation: Formal Hearing (CO for Revocation)**

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**9. Case No.: L05-PHR-RBS-200503235**

Complainant alleges that his prescription for Percocet filled on July 14, 2005 was mistakenly filled with Naproxen Sodium. Investigator interviewed the PIC, four (4) DPH's and the technician. The technician could not recall the incident, but investigator obtained almost identical recollections of the incident from the pharmacists. PIC states that the Complainant presented the tablets that he believed to be incorrect in the bottle. PIC was unable to visually identify the contents so he telephoned the poison control center and was informed that the tablets were Naproxen Sodium 550 mg from Able labs and that these tablets were subject to a manufacturers recall. Both the company warehouse and another backup wholesaler verify that they did not supply Able brand Naproxen to the pharmacy.

*Prior complaints:*  
*DPh: None*  
*Technician: None*  
*Pharmacy: None*

**Recommendation: Dismissal**

Dr. Robert Mitchell motioned to **dismiss the complaint**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**10. Case No.: L05-PHR-RBS-200502364**

Respondent admitted to the theft of Hydrocodone. Before we could bring her to a formal hearing, the Respondent's registration expired.

**Recommendation: Closure and reopen upon reapplication**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**11. Case No.: L05-PHR-RBS-200501843**

Complainant, physician's practice, alleges that the pharmacy filled a patient's May 10, 2005 prescription for Duragesic signed on the "dispense as written" line was substituted with a generic without prescriber permission. Investigation reveals that the prescription was written as "DAW" and the pharmacist admitted to filling it with the generic because the pharmacy was out of the brand name product and made the decision to substitute in the best interest of the patient.

*Prior complaints:*  
*DPh: None*  
*Pharmacy: None*

**Recommendation: Letter of Warning**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**12. Case No.: L05-PHR-RBS-200500228**

Complainant, a physician, alleges that his patient's dosage of Gabapentin was increased by the pharmacist without physician authorization. Prescriber's records indicated that the patient was instructed to take 900 mg (3 x 300mg capsules) daily in divided doses and the patient was actually taking 9,600 mgs (16 x 600mg capsules) daily in divided doses. The physician denies authorizing the 600 mg capsules. Pharmacy records revealed prescriptions documenting the increase in dosage that were all taken over the phone by the technician. PIC states that he discussed the phoned-in prescriptions with the technician and assumed that they were prescriber authorized. Technician submitted a statement saying the "he feels that were made to Dr's office for authorization" and states that because of the increased dosage, the patient had improved relief from the pain (patient was suffering from diabetic neuropathic pain). In a statement signed by the PIC and the technician, which says that the prescriptions were presented to the PIC for verification, and he assumed that they were authorized by the physician. Although there is no admission by the technician, we have prescriptions that were taken by the technician over the phone with increased dosages and presented to the pharmacist as being authorized.

*Prior complaints:*

*DPH (PIC): (10/2000, sold CII drug to doctor's office using Rx instead of 222, LOI)*

*RT: None*

*Pharmacy: (10/2000 as noted above)*

**Recommendation: Formal Hearing against the technician.**

Dr. Sheila Mitchell motioned to **accept the recommendation of counsel**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**13. Case No.: L05-PHR-RBS-200503013**

Respondent, a technician, was terminated from her employment after having tested positive for marijuana for a company drug screen.

**Recommendation: Closure and open upon reapplication**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**14. Case No.: L05-PHR-RBS-200503285**

Complainant alleges that her prescription for Alprazolam was shorted on 2 occasions. In April, 2005 and in August, 2005, she claims that she was shorted by 30 pills (prescription for 90 and received 60). On both occasions, she brought this to the attention of the pharmacy who indicated that the prescriptions were counted by 2 separate people.

Response from non-pharmacist pharmacy owner indicates that it is SOP of the pharmacy to double count their controlled substances. In the case of the Complainant, they now have a notation in the computer to triple count. Respondent states that Complainant has not had this problem with any of her other medications and that they have not had this problem with other customers.

*Prior complaints:*

*DPH: None*

*Technician: None*

*Pharmacy: None*

**Recommendation: Dismiss**

Dr. Julie Frazier motioned to **dismiss** the complaint; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**15. Case No.: L05-PHR-RBS-200503600**

Anonymous complaint alleges that the Respondent, pharmacist filled a prescription for Tramadol that was generated solely based on an online patient evaluation through a website. Investigation reveals that pharmacist said that the prescription did not contain any notation that the prescription was issued pursuant to an online patient evaluation and was not familiar with the website. Pharmacist states that at the time he filled the prescription, he did act as a fulfillment pharmacy for another company from August 3, 2005 to September 29, 2005. Pharmacist stated that he telephoned the BOP in late September, 2005 and discontinued this practice as soon as he was informed that the prescriptions were probably not considered to be valid prescriptions.

*Prior complaints:*

*DPH: (9/1998, illegal compounding, letter of reprimand)*

*Pharmacy: same as above*

**Recommendation: Letter of Warning to DPH and refer the matter to the FDA**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**16. Case No.: L05-PHR-RBS-200503184**

Complaint generated by staff alleging that the pharmacy (located in a clinic) did not have a consultation area with sufficient privacy in accordance with Rule 1140-1-.12(2). On September 7, 2004, investigator advised the pharmacy that they were not compliant. On July 26, 2005, investigator returned to find the pharmacy still not compliant.

PIC states that the physical area of the pharmacy was altered to increase security because of a rash of burglaries in a short period of time. An office was moved into the existing counseling area and the facility administrators had not adequately followed up on marking space for a counseling area. The PIC reports that a patient waiting area has been moved down the hall and patients will now be called into the pharmacy area when prescriptions are ready to provide privacy.

*Prior complaints:*

*DPH: None*

*Pharmacy: None*

**Recommendation: Dismiss**

Mrs. Monica Franklin motioned to **dismiss** the complaint; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**17. Case No.: L05-PHR-RBS-200503186**

Respondent, a technician, self reported that he sought treatment for opioid dependency at which time he was eligible for rehire. Since his treatment, Respondent had a legitimate prescription for Xanax that was not refilled; Respondent was taking the drugs out of the bottle from the shelf without a prescription. Respondent was terminated for this theft.

**Recommendation: Formal Hearing**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**18. Case No.: L05-PHR-RBS-200500441**

Complainant alleges that the Respondent pharmacy did not fill her prescription for an antibiotic and pain medication in a timely manner which caused her additional pain having just had oral surgery. Complainant also states that the pharmacist was rude and ripped up her prescription.

Respondent pharmacist denies being rude and states that the patient was already demonstrating rude behavior to a technician who asked the pharmacist to intercede. Prescription was retrieved from the pharmacy answering system around 5PM and the patient was informed around 5:20PM that the wait would be 30-45 minutes. Pharmacist states that the patient began to talk loudly and hit the pick up area with her hand demanding the prescription back. Patient took the prescriptions and left the pharmacy. Patient's mother then returned to the pharmacy and the prescriptions were filled as soon as possible.

*Prior complaints:*

*DPH: None*

*Pharmacy: None*

**Recommendation: Dismiss**

Dr. Sheila Mitchell motioned to **dismiss** the complaint; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**19. Case No.: L05-PHR-RBS-200502793**

Complaint generated from notification from the National Practitioners Database stating that on August 24, 2002 a prescription for Topamax was mistakenly filled with Toprol which resulted in the patient becoming more severely depressed and having suicidal thoughts since the error was not discovered for 25 days.

Respondent admits the error and has no specific recollection of the incident since it happened over 3 years ago. Since the incident the 2 drugs have been separated to prevent future errors.

*Prior complaints:*

*DPH: None*

*Pharmacy: None*

**Recommendation: Letter of Warning**

Dr. Robert Mitchell motioned to accept counsel's recommendation; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

**20. Case No.: L05-PHR-RBS-2005003516**

Respondent self-reported a medication error. A prescription for generic Hytrin 10mg (Terazosin) was mistakenly filled with Haloperidol 10mg and the patient consumed four (4) doses. DPH states that the following may have contributed to the error: increased workload because of TennCare changes, containers of Haloperidol and Terazosin are the same size and are products of the same manufacturer, strengths were the same and a recent cleaning and rearranging resulted in the Haloperidol being where the Terazosin used to be. The PIC reviewed the situation and has reiterated to staff the need to follow the P & P for processing and verifying all prescriptions and instituted an additional check of the product before giving the finished prescription to the patient.

*Prior complaints:*

*DPH: None*

*Pharmacy: None*

**Recommendation: Letter of Warning**

Dr. Julie Frazier motioned to **issue a Letter of Instruction and to advise in the letter to visit the ISMP website where other errors occur and review.** Mrs. Monica Franklin seconded the motion. There was one (1) nay vote. The motion carried.

**21. Case No.: L05-PHR-RBS-200503861**

Complaint generated by staff after receiving information that the pharmacist was entering the pharmacy and ingesting unknown liquids taken from the area in the pharmacy where Hydrocodone is located. CCTV tape shows that the Respondent entered the closed pharmacy and poured an unknown liquid into a 4 oz bottle, put it in his pocket and then left the pharmacy. On another occasion, the Respondent entered the pharmacy prior to it being open and removed a bottle of unknown liquid from the shelf and drank directly from the bottle. The pharmacist signed a statement admitting to the theft and ingestion of 4 to 8 ounces daily of various liquid Hydrocodone products over a period of 2 to 3 months. Respondent has refused treatment after being contacted by the TPRN and indicates that he is not addicted, but is treating a medical condition.

**Recommendation: Formal Hearing (CO for Indefinite Suspension)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**22. Case No.: L05-PHR-RBS-200503295**

Respondent, technician, admitted to the theft of 80 Hydrocodone 10/500, 40 Soma, 6000 Alprazolam 1mg and 1400 Alprazolam 2 mg.

**Recommendation: Formal Hearing**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**23. Case No.: L04-PHR-RBS-200421072**

Complaint alleges that the Respondent was observed on CCTV tape stealing over-the-counter items (Ibuprofen, Calcium supplement and Centrum generic); Respondent admitted to the theft of the items and justified taking them because his employer failed to pay him overtime). Respondent was also observed dropping his pants and rubbing bath oil on his inner thighs. Respondent also admitted to taking 3 Hydrocodone APAP tablets for personal use. Respondent also tested positive for Phentermine on May 10, 2005, when Respondent had a 2002 prescription. Respondent claims that he might have taken his wife's Phentermine by mistake, instead of his Lipitor. A check at the pharmacies where the Respondent worked showed no discrepancies in the Phentermine counts.

**Recommendation: Formal Hearing**

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**24. Case No.: L05-PHR-RBS-200503987**

Respondent, a technician, was observed on CCTV tape removing 1 x 500 Hydrocodone w/ APAP 10/500 from the pharmacy shelf, placing in a bag of trash and walking to the back door of the pharmacy. Respondent admitted to the theft and stated that it had been taking place for 7 months. Respondent was covering the theft by making negative adjustments to the inventory system and the negative adjustments calculated a loss of 9,056 tablets. Respondent was terminated and police were notified.

**Recommendation: Formal Hearing (Consent Order for Revocation)**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**25. Case No.: L05-PHR-RBS-200503974**

During a routine periodic inspection conducted on October 12, 2005, investigator noted that the pharmacist on duty's license expired September 30, 2005. Respondent stated that he was waiting for some CE credits that had not been forwarded to him. Respondent was advised that he could not work on an expired license and was relieved. Respondent renewed his license on October 17, 2005.

*Prior complaints: None*

**Recommendation: Consent Order with \$100.00 civil penalty**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**26. Case No.: L05-PHR-RBS-200503043**

As a result of an August 2, 2005 compliance inspection, investigator observed four (4) technicians being supervised by one (1) pharmacist. One (1) of the persons was a technician student performing rotations. Former PIC, who is no longer employed at the pharmacy states that there were normally two (2) pharmacists present and they would have been in compliance, but one (1) of the pharmacists did not come in that day. The new PIC states that on August 4, 2005 a new policy was instituted stating that when there are four (4) techs present and one (1) DPH, one (1) of the techs will be designated a cashier.

**Recommendation: Letter of Warning to former PIC with a reminder that when the ratio is 3:1 is one a certified technician.**

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**27. Case No.: L05-PHR-RBS-200102306**

Respondent was terminated after admitting forged prescriptions, stealing controlled substances and diverting them to another person. Respondent admitted in a signed statement to forging approximately twenty-five (25) prescriptions for Oxycontin, Hydrocodone and Hydromorphone, theft of fifteen (15) Oxycontin tablets on two (2) occasions, and providing the forged prescriptions to third persons on multiple occasions.

**Recommendation: Formal Hearing**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**28. Case Nos.: L05-PHR-RBS-2003172391, 200421071, 2005007321, 2005018121, 2005018401**

Respondent, technicians admitted to the theft and/or diversion of controlled substances. Respondent's registrations expired before a formal hearing could be brought.

**Recommendation: Closure and reopen upon reapplication**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

**ELECTION OF OFFICERS**

President Reggie Dilliard asked for the nominations for President of the Tennessee Board of Pharmacy. Dr. Sheila Mitchell nominated Dr. Julie Frazier for President, seconded by Dr. Todd Bess. All were in favor and the motion carried.

President Dilliard asked for the nominations for Vice President of the Tennessee Board of Pharmacy. Dr. Robert Mitchell nominated Dr. Sheila Mitchell, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

President Dilliard announced Dr. Julie Frazier was elected President and Dr. Sheila Mitchell, Vice President of the Tennessee Board of Pharmacy for the calendar year of 2006. Congratulations!!

#### **PUBLIC CHAPTER #434**

Mrs. Alison Cleaves, chief legal counsel, noted anyone who might be interested in assisting with the letter to be addressed to Deputy Commissioner Scott White regarding Public Chapter # 434, may do so, as she feels the Department of Commerce and Insurance as a whole would be greater than just the Board. Dr. Sheila Mitchell motioned to **accept counsel's statement**, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **FAREWELLS**

Dr. Julie Frazier expressed appreciation to Dr. Reggie Dilliard for his services and leadership while being President of Board. Dr. Reggie Dilliard thanked the Board and has enjoyed his time serving the profession.

#### **ADJOURNMENT**

President Reggie Dilliard adjourned the Board of Pharmacy meeting on Wednesday, November 16, 2005 at 12:10 p.m. CST.

Respectfully submitted,

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Reggie Dilliard, President

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Kendall M. Lynch, Director